IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 36611 of 2007(H)

PETITIONERS:

1. DR.SASI ELOOR, ELOOR HOUSE,
P.O.KOLENCHERRY, ERNAKULAM DISTRICT.

2. DR.KEZIA SASI, ELOOR HOUSE,
P.O.KOLENCHERRY, ERNAKULAM DISTRICT.

BY SENIOR ADV.SRI.K.P.DANDAPANI
SRI.MILLU DANDAPANI.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, DEPARTMENT OF LOCAL SELF
GOVERNMENT, GOVERNMENT SECRETARIAT,
TRIVANDRUM-695 001.

2. THE CHIEF TOWN PLANNER,
GOVERNMENT OF KERALA, TRIVANDRUM.

3. THE REGIONAL TOWN PLANNER,
REGIONAL TOWN PLANNER'S OFFICE,
ERNAKULAM.

4. CORPORATION OF COCHIN, PARK AVENUE,
COCHIN-682 011, REPRESENTED BY ITS SECRETARY.

R1 TO R3 BY GOVT. PLEADER MR.K.J.MOHAMMED ANZAR
R4 BY ADV.MR.K.ANAND, S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) No.36611 of 2007

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Dated: 11th December, 2007

JUDGMENT

Govt. Pleader takes notice for respondents 1 to 3 and Adv.K.Anand, Standing Counsel takes notice on behalf of the 4th respondent.

2. Heard Mr.K.P.Dandapani, Senior Counsel, on behalf of the petitioners, Mr.K.J.Mohammed Anzar, learned Govt. Pleader for respondents 1 to 3 and Mr.K.Anand, Standing Counsel for the 4th respondent.

3. Having regard to the submissions, I find merit in the submissions of the learned Senior Counsel that the issue is covered by my judgment in W.P.C.No.25478/06. The application for building permit was submitted by the petitioners on 5.5.2006 which is much prior to the cut off date of 28.8.2006 when the Government issued Ext.P5 order. For all the reasons stated in my judgment in W.P.C.No.25478/06, the application for building permit submitted by the petitioner is liable to be considered by the 4th respondent-Corporation applying the FAR as permitted under KMBR, 1999 and not the one permitted under the Structure Plan of Central City, Kochi, 1991. Under these circumstances, the Writ Petition will stand

disposed of issuing the following directions:

The 4th respondent is directed to consider and pass orders on Ext.P2 application and grant approval to the plan submitted by the petitioners taking into account the judgment of this court in W.P.C.No.25478/06 and the various grounds raised in the Writ Petition. Decision as directed above will be taken at the earliest and at any rate within one month of receiving copy of this judgment, copy of the Writ Petition and a copy of the judgment in W.P.C.No.25478/06.

srd **PIUS C.KURIAKOSE, JUDGE**